

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JOHNNY GRIFFIN

PLAINTIFF

vs.

CASE NO.: 3:15-CV-822-HTW-LRA

**KEMPER COUNTY, MISSISSIPPI,
a Municipal Corporation**

DEFENDANT

REPORT AND RECOMMENDATIONS

THIS CAUSE is before the Court on the parties' announcement that they have agreed to a resolution of all matters in this cause. The Court, being advised that all parties have an informed understanding of their rights and a full appreciation of the consequences of the resolution and that they now seek court approval of the FLSA Settlement and an Order of Dismissal with Prejudice, the undersigned hereby reports and recommends as follows:

1. Plaintiff filed this action for unpaid overtime wages and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) ("FLSA") on November 16, 2015. *See* [D.E. 1].
2. The Court conducted a Settlement Conference in this matter on February 29, 2016. Each of the parties appeared before the undersigned, participated in the proceeding and a tentative agreement was reached between the parties.
3. The parties have formalized and exchanged a Confidential Settlement Agreement, Waiver and General Release and submitted it to the Court for its approval.
4. The undersigned conducted a Telephonic Fairness Hearing on March 24, 2016.
5. Having reviewed the parties' proposed Confidential Settlement Agreement, Waiver and General Release, and based upon the statements of counsel for both parties, the

Court finds that there was a bona fide dispute as to the legal claims, defenses, and facts in this case, including, but not limited to, issues of liability and the amount of overtime compensation due, if any. The settlement terms proposed by the parties are fair and reasonable to all involved and the agreement is a fair and reasonable resolution of the bona fide dispute.

6. The undersigned specifically finds that this was an arms-length transaction resulting in settlement, and there is no evidence of either fraud or collusion.

THEREFORE, the undersigned recommends that:

- a. The Court approve the settlement and the parties are ordered to finalize the settlement through the exchange of consideration;

- b. Based upon this resolution by the parties, all claims that the Plaintiff has or may have arising out of or relating to this lawsuit, including, but not limited to, any claims under the FLSA for wages, overtime, liquidated damages, attorneys' fees, costs, expenses or other relief, award or damages are resolved and should be **DISMISSED WITH PREJUDICE**

- c. The parties should bear only their own costs and attorneys' fees;

- d. The aforementioned Confidential Settlement Agreement, Waiver and General Release should be approved; and

- e. That the Clerk of the Court be directed to enter the Court's Final Judgment and Order of Dismissal on the civil docket as a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

Notice of Right to Object

In accordance with the rules, any party within fourteen days after being served a copy of this recommendation, may serve and file written objections to the recommendations, with a copy to the judge, the magistrate judge and the opposing party. The District Judge at the time may accept, reject or modify in whole or part, the recommendations of the Magistrate Judge, or may receive further evidence or recommit the matter to this Court with instructions. The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation within fourteen days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court to which the party has not objected. *Douglass v. United Services Automobile Association*, 79 F.3d1415, 1428-29 (5th Cir. 1996).

SO ORDERED, this the _____ day of March, 2016.

UNITED STATES MAGISTRATE JUDGE

SUBMITTED AND APPROVED BY ALL PARTIES AND COUNSEL